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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,897	08/21/2003	Takako Ozawa	Q76398	6409
23373 7590 04/17/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER ANGEBRANNDT, MARTIN J	
			ART UNIT 1756	PAPER NUMBER
			MAIL DATE 04/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/644,897	Applicant(s) OZAWA ET AL.	
	Examiner Martin J. Angebrannt	Art Unit 1756	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3/28/07 & 2/15/07 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires eight months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on 28 March 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-3 and 5-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 2/15/07
13. ☒ Other: PTO-892.


Martin J. Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejections made under 102 over Mizushima et al., Miki et al., Ohno '443 alone or the 103 rejection over Ohno '443 and Kawakubo et al. '656.

Continuation of 11. does NOT place the application in condition for allowance because: The amendments to the abstract, specification and claims is approved. This is a clear error (unit angle) with a clear repair to the defect (unit area) and this position is supported by the translation of the priority document. The examiner also verified this change with PTO staff translators. The analysis of Ohno '443 merely points out that grain size cannot be larger than the depressions. It is clear that the growth would be limited in the planar direction by the topography, irrespective of the size of these features and there is direction in [0039] to short wavelength lasers and high NA, which dovetails nicely with the teachings of Ohkubo et al. and Yabe et al. which describe the use of shorter wavelength lasers. Further there is motivation in terms of increasing the data capacity of the media of Ohno et al. or Mizushima et al. as smaller pitches mean more tracks along the radius and therefore higher data density. Further, the claims do not preclude the presence of the underlayer of Ohno '443. The applicant makes no mention of the connection between the crystallite sizes as measured by X ray diffraction and the the resulting protrusions/roughness in a 100 nm thick layer, the direction to smoother layers and the reduced noise from these in Mizushima et al. '596 at [0032]. Yabe et al. is relied upon for the teachings of the groove depth. As to the argued defect of Ohno, '443, there is specific direction to smoother films, specifically those having a surface roughness of at most 2 nm at [0058] and the reduction in the noise attributed to the use of smoother films at [0034]. The remaining rejection stand for these and the other reasons of record.

nt 4/13/07